



CANNON BUILDING
861 SILVER LAKE BLVD., SUITE 203
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE
COMMISSION ON ADULT ENTERTAINMENT
ESTABLISHMENTS

TELEPHONE: (302) 744-4500
FAX: (302) 739-2711
WEBSITE: DPR.DELAWARE.GOV
EMAIL: customerservice.dpr@state.de.us

PUBLIC MEETING MINUTES:	Adult Entertainment Commission
MEETING DATE AND TIME:	Thursday, July 30, 2015 at 2:00 p.m.
PLACE:	Cannon Building, 861 Silver Lake Boulevard Conference Room A, Dover, Delaware 19904
MINUTES APPROVED:	October 29, 2015

MEMBERS PRESENT

Robb Carter, Public Member
Leonard McCartney, Jr., Public Member
Dr. Horacio Lewis, Public Member

MEMBERS ABSENT

Tiffany Trawick, Public Member
Dawn Hill, Public Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT

Kevin Maloney, Deputy Attorney General
Amanda McAtee, Administrative Specialist II
David Mangler, Division Director

PUBLIC PRESENT

Willis J. Duckery
Daniel Zazzali
Arthur Rosenheck
John Valdina
Jason Alcorn (arrived at 3:26 p.m.)

CALL TO ORDER

Mr. Carter called the meeting to order at 2:30 p.m.

REVIEW AND APPROVAL OF MINUTES

MEETING MINUTES – October 30, 2014

After review, Mr. Carter made a motion, seconded by Mr. McCartney, to approve the July 31, 2014 minutes as presented. The motion unanimously carried.

UNFINISHED BUSINESS – none

Election of Officers

Mr. McCartney made a motion, seconded by Dr. Lewis, to nominate Mr. Carter as the Commission's chair. Mr. Carter accepted the nomination. The motion unanimously carried.

NEW BUSINESS

Fairways Inn Topless Tavern – Willis Duckery

All Commission members reviewed the renewal application of Fairways Inn Topless Tavern. Mr. Duckery was present during the Commission's review of his application. The Commission had no questions for Mr. Duckery. Mr. Carter made a motion, seconded by Dr. Lewis, to approve the application of Fairways Inn Topless Tavern. The motion unanimously carried.

Leather Central – Jason Alcorn

All Commission members reviewed the renewal application of Leather Central. Mr. Alcorn was present during the Commission's review of his application. The Commission had no questions for Mr. Alcorn. Mr. Carter made a motion, seconded by Dr. Lewis, to approve the application of Leather Central. The motion unanimously carried.

DVD Depot, Inc. – Adult-Oriented Retail Establishments – Book Store – Daniel Zazzali

All Commission members reviewed the renewal application of DVD Depot, Inc. Mr. Zazzali was present during the Commission's review of his application. The Commission had no questions for Mr. Zazzali. Dr. Lewis made a motion, seconded by Mr. Carter, to approve the application of DVD Depot, Inc. The motion unanimously carried.

COMPLAINT UPDATES

None

OTHER BUSINESS BEFORE THE COMMISSION (for discussion only)

None

PUBLIC COMMENT

Mr. Duckery stated that he was concerned with the criminal background checks for his independent contractors.

Mr. Maloney felt that the commission was over-reaching in requiring the certificate of individual and background check from independent contractors. The statute provided for denial or revocation of license for independent contractor conviction but did not since independent contractors were not employees of the establishment they did not fit under section 1620 which only concerned background checks for applicants and employees.

§ 1620 Criminal background checks of applicants and employees.

An applicant for licensure as an adult entertainment establishment or adult-oriented retail establishment and all persons employed by the adult entertainment establishment or adult-oriented retail establishment shall submit, at the applicant's expense, fingerprints and other necessary information in order to obtain the following:

- (1) A report of the individual's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to that person.
- (2) A report of the individual's entire federal criminal history record pursuant to the Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534). The State Bureau of Identification shall be the intermediary for purposes of this section and the Commission on Adult Entertainment Establishments shall be the screening point for the receipt of said federal criminal history records.

Mr. Maloney stated that independent contractors were only mentioned in the statute under section 1617:
§ 1617 Grounds for refusal to issue a license; suspension; revocation.

(a) The Commission shall refuse to issue a license to any applicant, and shall revoke any license for the operation of an adult entertainment establishment or adult-oriented retail establishment, for any of the following reasons:

(4) A conviction of any director, officer, principal stockholder, manager, procurer, employee or independent contractor of the licensee or of a partner associated with the licensee for any of the following offenses, including conspiracy to commit any of the following offenses ... or

(5) A conviction of any director, officer, principal stockholder, manager, procurer, employee or independent contractor of the licensee, or of a partner associated with the licensee, for any of the following offenses, including conspiracy to commit any of the following offenses: ... , in this State or any other jurisdiction, not occurring on licensed premises, where said director, officer, principal stockholder, manager, procurer, employee or independent contractor, at the time of the conduct constituting the offense, was off the premises at the request or direction or pursuant to the authority of the licensee for the purpose of furthering the business of the licensee.

Mr. Mangler stated that it seemed to be incumbent on the owner to make sure that their independent contractors did not have convictions covered by the statute. Mr. Maloney stated that this would require further review and discussion at the next commission meeting.

Dr. Lewis questioned about the operations of possible unlicensed establishments. Ms. McAtee stated that the public and commission members could file complaints and that the Division's investigations were driven by public complaints. Mr. Mangler stated that a cease and desist order could be issued if the matter warranted it.

NEXT SCHEDULED MEETING

The next meeting will be held on October 29, 2015 at 2:00 p.m. in second-floor Conference Room A of the Cannon Building located at 861 Silver Lake Boulevard in Dover.

ADJOURNMENT

There being no further business, Dr. Lewis made a motion, seconded by Mr. McCartney, to adjourn the meeting at 3:37 p.m. The motion unanimously carried.

Respectfully Submitted,



Amanda McAtee
Administrative Specialist II

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Commission members and the public in supplementing their personal notes and recall for presentations.